

E-Filed 6/25/10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID M. DAVID,

No. C 09-5934 RS (PR)

Petitioner,

**ORDER DISMISSING PETITION
WITH LEAVE TO AMEND**

v.

TIMOTHY LOCKWOOD, et al.,

Respondents.

This is a federal habeas corpus action filed by a *pro se* state prisoner pursuant to 28 U.S.C. § 2254. Petitioner has filed three petitions with this Court. It is unclear which of these is the operative petition. Accordingly, all the petitions (Docket Nos. 1, 9 & 12) are DISMISSED with leave to amend. Petitioner must file an amended petition within 30 days from the date this order is filed. In this amended petition, petitioner must provide sufficient legal and factual basis for all of his claims, including the unexhausted one. Any claims that are insufficiently alleged will be dismissed. The first amended petition must include the caption and civil case number used in this order (09-4951 RS (PR)) and the words THIRD AMENDED PETITION on the first page.

No. C 09-4951 RS (PR)
ORDER DISMISSING PETITION

1 **Because an amended petition completely replaces the previous petitions,**
2 **petitioner must include in his third amended petition all the claims he wishes to present.**
3 **Petitioner may not incorporate material from the prior petition by reference.** In other
4 words, the Court will look exclusively at the third amended complaint, and not to any other
5 filings, to determine what claims petitioner is alleging.

6 Petitioner is reminded that he can challenge only one of his convictions in this Court.
7 In the second amended petition, petitioner challenges a 1991 conviction in Alameda County,
8 and a 2006 conviction in Los Angeles County. The appropriate venue for the Alameda
9 County conviction is indeed in this Court. But, the appropriate venue for the Los Angeles
10 County conviction is the U.S. District Court for the Central District of California. Petitioner,
11 then, is directed to file any claims related to the Los Angeles County conviction with the
12 Central District. The third amended petition filed with this Court should include claims
13 related solely to the Alameda County conviction. Any unrelated claims will be dismissed.

14 **Failure to file an amended petition in accordance with this order will result in**
15 **dismissal of this action without further notice to petitioner.**

16 **IT IS SO ORDERED.**

17 DATED: June 25, 2010



RICHARD SEEBORG
United States District Judge